



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,302	02/27/2002	Masanori Taketsugu	Q68714	5539
23373	7590	06/29/2005	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			TRAN, TUAN A	
			ART UNIT	PAPER NUMBER
			2682	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/083,302	TAKETSUGU, MASANORI	
	Examiner	Art Unit	
	Tuan A. Tran	2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 March 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3 is/are rejected.
- 7) Claim(s) 4-6 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by

Uebayashi et al. (2003/0198205).

Regarding claim 1, Uebayashi discloses a mobile communication system (See fig. 1) comprising: a mobile terminal 101-105, 111-113 capable of designating a communication quality (high speed communications) in requesting communication; a radio base station 121 connected to the mobile terminal 101-105, 111-113 through a radio channel; a radio network controller 412 connected to the radio base station 121 to

control the communication quality between the mobile station 101-105, 111-113 and the radio base station 121, wherein the radio network controller 412 comprises a communication request reception determination unit, upon receiving a communication request which designates the communication quality from the mobile terminal, determining whether the received communication request is to be received, on the basis of a communication quality (low speed communications) provided to communication which requests without communication quality (See figs. 1-4 and page 2 [0028-0032], page 3 [0033-0036]).

Regarding claims 2-3, Uebayashi discloses as cited in claim 1. Uebayashi further discloses the communication request reception determination unit further comprises: inquiry means for, upon receiving the communication request which designates the communication quality, inquiring of a communication quality measurement unit of the communication quality n (low speed communication or Q as cited in the instant application) provided to communication which requests without communication quality, and the communication quality measurement unit measures the communication quality n and outputs the communication quality (See fig. 6 and page 3 [0042-0045]); a comparison means for, upon receiving the communication request which designates the communication quality, comparing the measured communication quality n with a predetermined threshold value n_{max} ; bandwidth setting means for resetting an allowable communication bandwidth on the basis of a comparison result from the comparison means; and determination means for determining whether the communication request is to be received, on the basis of a bandwidth required by the

received communication request and the allowable communication bandwidth reset by the bandwidth setting means (See figs. 5-6 and page 3 [0041-0045]).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Chuah (6,377,548); Zicker et al. (5,832,378); Dokko (2001/0004599); Downing et al. (6,373,855); Hluchyj et al. (5,432,790); Hayano et al. (5,132,966); Turcotte et al. (6,181,684); Marin et al. (6,222,824); Kawakami et al. (6,560,231); Natarajan (5,826,169); Cave (6,631,269); Shoji et al. (2003/0003960); Cave (2004/0033807); Olofsson et al. (6,647,265); Oliva (6,459,681); Beming et al. (5,740,537); Yin et al. (5,982,748).

Allowable Subject Matter

Claims 4-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Regarding claims 4-6, Uebayashi discloses as cited in claim 2. However, Uebayashi does not mention that when the measured communication quality Q is higher than the first threshold QH, the bandwidth setting means increases the allowable communication bandwidth by a first predetermined value to reset a new allowable communication bandwidth, and when the measured communication quality Q is lower

than the second threshold QL (QL < QH), the bandwidth setting means decreases the allowable communication bandwidth by a second predetermined value to reset a new allowable communication bandwidth.

Response to Arguments

Applicant's arguments filed 03/09/2005 have been fully considered but they are not persuasive.

a. The Applicant argued that Uebayashi fails to disclose, teach or suggest any form of signal transmission control related to the quality of the communication in term of a measured error rate (See Remark, pages 7-8). In response to the Applicant's argument, it is noted that the limitation upon which Applicant relies "...quality of communication in term of a measured error rate..." is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ 2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan Tran** whose telephone number is **(571) 272-7858**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Nick Corsaro**, can be reached at **(571) 272-7876**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571) 273-8300 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Application/Control Number: 10/083,302
Art Unit: 2682

Page 7

2682

Tuan Tran

AU 2682


NICK CORSARO
PRIMARY EXAMINER